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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/401,584	09/22/1999	CHARLES D. GAVRILOVICH	GAVRILOVICH-	4845
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CHARLES D. GAVRILOVICH, JR., A PROFESSIONAL CORPORATION 985 PASEO LA CRESTA, SUITE A CHULA VISTA, CA 91910-6729			EXAMINER CONTEE, JOY KIMBERLY	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/401,584

Applicant(s)

GAVRILOVICH, CHARLES D.

Examiner

Joy K Contee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-36, 49-82, 89-106 and 113-123 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 63-82 and 97-102 is/are allowed.
- 6) ☒ Claim(s) 30-36, 49, 54, 61, 62, 89, 93, 103 and 113-123 is/are rejected.
- 7) ☒ Claim(s) 50-53, 55-60, 90-92, 94-96 and 104-106 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of the Appellant's Appeal Brief under 7 CFR §1.192 filed on July 2, 2004, PROSECUTION IS HEREBY REOPENED. With respect to claims 30-36,49,54,58,61,62,89,93,103, 113,118 and 119, a new ground of rejection using a different embodiment (see Fig. 12) described in Yokoi et al. (Yokoi), U.S. Patent No. 5,282,239 is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 30-36,49, 54, 58, 61, 62, 89, 93,103 and 113-123 are rejected under 35 U.S.C. 102(b) as being anticipated by Yokoi (US 5,282,239), previously used, different embodiment.

Regarding claims 30,113 and 119, Yokoi teaches a transmitter/ moving communication cell (*i.e., reads on moving base station 32, see Fig. 12*) (and method of providing a moving communication cell to a mobile unit) adapted to transmit a signal to a mobile unit (*i.e., reads on portable cordless telephone 19, see Fig. 12*) while the transmitter/moving communication cell (*i.e., moving base station 32*) has a motion relative to Earth along a predetermined path (*i.e., moving base station 32 is coupled to an elevator 31, see Fig. 12, which moves relative to earth along the elevator shaft in a vertical direction, i.e., upward and downward*) and in accordance with an anticipated motion of the mobile unit (*i.e., reads on a person carries the portable cordless telephone 19 and moves relative to both moving base stations 20 and 32, see Fig. 12 and the earth*), wherein an actual motion of the mobile unit (*i.e., reads on portable cordless telephone 19*) is independent of the motion (*i.e., portable cordless telephone 19 moves within and with moving base station 20 coupled to the elevator 1, however, said portable cordless telephone moves free, i.e., said cordless telephone's motion is not due to the motion of elevator 31, which is adapted to transmit a signal to said cordless telephone when elevators 1 and 31 are moving side by side, i.e., reads on "anticipated motion" of mobile*) of the transmitter/moving communication cell (*i.e., reads on moving base station 32*) (col. 7,lines 39-52 and col. 8,lines 5-15).

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Regarding claim 89, the claim is rejected as being anticipated by Yokoi for the same reason as claim 30 above.

Regarding claims 31, 114 and 120, Yokoi teaches wherein the predetermined path (i.e., parallel track is the path) has a contour corresponding to a roadway contour and the anticipated motion of the mobile unit is on the roadway (col. 8, lines 24-34).

Regarding claim 32, Yokoi teaches a wherein the transmitter is further adapted to travel on a conveyor device along the predetermined path (col. 7, lines 21-38, col. 8, lines 24-34).

Regarding claim 33, Yokoi teaches wherein the signal corresponds to a received signal received at the transmitter from a fixed radio port (i.e., sending a call via the moving base, col. 8, lines 5-15).

Regarding claim 34, Yokoi teaches a receiver (*i.e., within moving base station 32*) adapted to receive a signal from a mobile unit (*i.e., portable cordless telephone 19*) while the receiver (*i.e., moving base station 32*) has a motion relative to Earth along a predetermined path (*i.e., moving base station 32 is coupled to elevator 31, which moves relative to earth*) and in accordance with an anticipated motion of the mobile unit (*i.e., reads on a person carries the portable cordless telephone 19 and moves relative to both moving base stations 20 and 32, see Fig. 12 and the earth*), wherein an actual motion of the mobile unit (*i.e., with and within elevator 1*) is independent (*i.e., portable cordless telephone is free from elevator 31*) of the motion of the receiver (*moving base station 32*) (col. 7, lines 39-52 and col. 8, lines 5-15).

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Regarding claim 93, the claim is rejected as being anticipated by Yokoi for the same reason as claim 34 above.

Regarding claim 35, Yokoi teaches wherein the predetermined path (i.e., parallel track is the path) has a contour corresponding to a roadway contour and the anticipated motion of the mobile unit is on the roadway (col. 8, lines 24-34).

Regarding claim 36, Yokoi teaches a wherein the transmitter is further adapted to travel on a conveyor device along the predetermined path (col. 7, lines 21-38, col. 8, lines 24-34).

Regarding claim 49, Yokoi teaches a movable base station (20 or 32) adapted to establish a communication link between a fixed port and mobile unit (19) while the movable base station has a motion relative to Earth along a predetermined path and in accordance with an anticipated motion of the mobile unit (*i.e., reads on a person using the portable cordless telephone leaves the elevator 1*), wherein the motion of the movable base station is controlled independently to the anticipated motion of the mobile unit (*i.e., portable cordless telephone 19 moves within and with moving base station 20 coupled to the elevator 1, however, said portable cordless telephone moves free, i.e., said cordless telephone's motion is not due to the motion of elevator 31, which is adapted to transmit a signal to said cordless telephone when elevators 1 and 31 are moving side by side, i.e., reads on "anticipated motion" of mobile*) (col. 7, lines 39-52 and col. 8, lines 5-15).

Regarding claims 54, 115-118, 121-123, Yokoi teaches a movable base station (or moving communication cell) (32) adapted to have a motion relative to a fixed port (fixed

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base or central switch) along a predetermined path and in accordance with an anticipated motion of a mobile unit, comprising: a first radio interface (or gateway) adapted to establish a first communication link between the movable base station and the mobile unit (col. 7, lines 39-52); and a second radio interface adapted to establish a second communication link between the movable base station and the fixed port wherein an actual motion of the mobile unit independent of the motion of the movable base station (*i.e., portable cordless telephone 19 moves within and with moving base station 20 coupled to the elevator 1, however, said portable cordless telephone moves free, i.e., said cordless telephone's motion is not due to the motion of elevator 31, which is adapted to transmit a signal to said cordless telephone when elevators 1 and 31 are moving side by side, i.e., reads on "anticipated motion" of mobile*) (col. 7, lines 39-52 and col. 8, lines 5-15).

Regarding claim 61, dependent on claim 54, Yokoi teaches a wherein the transmitter is further adapted to travel on a conveyor device along the predetermined path (col. 7, lines 21-38, col. 8, lines 24-34).

Regarding claim 62, dependent on claim 61, Yokoi teaches wherein the signal corresponds to a received signal received at the transmitter from a fixed radio port (*i.e., sending a call via the moving base, col. 4, lines 6, lines 46-55*).

Regarding claim 103, Yokoi teaches a method of providing a communication connection between a communication network and a plurality of mobile units (*i.e., reads on 20, 32 and 35, see Fig. 11*) having a motion relative to a plurality of fixed ports (such as fixed base 4), wherein the plurality of fixed ports are communicatively coupled to the

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communication network, the method comprising the steps of: establishing a first communication link between the plurality of mobile units (i.e., reads on moving base stations 20,32 and 35, see Fig. 11) and a first fixed port of the plurality of fixed ports through a movable base station having a motion in accordance with the motion of the mobile units station (*i.e., portable cordless telephone 19 moves within and with moving base station 20 coupled to the elevator 1, however, said portable cordless telephone moves free, i.e., said cordless telephone's motion is not due to the motion of elevator 31, which is adapted to transmit a signal to said cordless telephone when elevators 1 and 31 are moving side by side, i.e., reads on "anticipated motion" of mobile*); and simultaneously handing off the plurality of mobile units to a second fixed port of the plurality fixed ports (col. 8, line5-15).

Allowable Subject Matter

4. Claims 63-82 and 97-102 are allowed.
5. Claims 50-53,55-60,90-92, 94-96 and 104-106 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K Contee whose telephone number is 703-308-

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0149. The examiner can normally be reached on M (alternating), T & Th, 5:30 a.m. to 2:00 p.m.

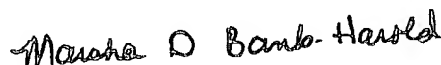
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JKC
PATENT EXAMINER

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October 1, 2004


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